

April 3, 2009

MRP Tentative Order Comments
Attn: Dale Bowyer
S.F. Bay Water Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Municipal Regional Permit Revised Tentative Order

Dear Mr. Bowyer:

The City of Hayward appreciates the opportunity to comment on the draft Municipal Regional Permit Revised Tentative Order (MRP), released February 11, 2009. The City acknowledges the endeavors made to revise the draft permit and supports the Water Board's goal of protecting local creeks and the San Francisco Bay from the detrimental impacts of stormwater runoff. While the City appreciates many of the changes included in the MRP since the initial 2007 Tentative Order, the draft MRP, as recently revised, still contains many new requirements that are potentially very costly and may be of questionable efficacy in addressing stormwater pollution. As you are aware, local agencies are experiencing unprecedented fiscal challenges and must allocate dwindling funds in a manner that maximizes the return on those funds for the public. In addition, agencies' ability to increase stormwater fees to fund additional requirements is severely hampered by Proposition 218's amendment to the California Constitution.

The City acknowledges and concurs with the comment letters submitted by the Bay Area Stormwater Management Agencies Association (BASMAA), Alameda County City Managers' Association (ACCMA), and the Alameda Countywide Clean Water Program (ACCWP), and would also like to emphasize the following concerns regarding the MRP.

One major concern is the trash reduction component of the MRP, found in Provision C.10. The City recognizes that litter is a pervasive environmental problem and the City continues to make strides in its efforts and commitment to reduction of trash. The City appreciates the Board's acquiescence in removing the rigid requirements of the Enhanced Trash Management Control Measures, replacing it with the more flexible menu of Trash Source Reduction management tools. Cost-effective measures such as public outreach should also

Office of the City Manager

777 B Street • Hayward • CA • 94541-5007
Tel: 510-583-4300 • Fax: 510-583-3601 • Website: www.hayward-ca.gov

be included as optional tools. The requirement to conduct trash assessments at trash hot spots, as per the prescribed methodology, dedicates staff resources that can be better utilized elsewhere. At a minimum, the City recommends documenting the weight of trash collected versus tabulating the number of individual pieces of trash deposited in these hot spots. Further, the requirement to install full trash capture devices on a catchment area equal to 30% of Retail/Wholesale Commercial Land is of significant concern to the City. These structural devices are very costly to install and maintain. In addition, the requirement of full trash capture devices to screen materials 5 mm in size poses significant flood risks when these devices become obstructed with leaves or debris during storm events. Finally, determination of the number of trash hot spots and area required to drain to full trash capture devices is determined by Association of Bay Area Governments (ABAG) 2005 land use statistics. The City has found significant disparity between ABAG 2005 land use data and City records documenting retail/wholesale commercial land acreage statistics.

Another major concern is the requirement to conduct pilot projects to divert discharges from stormwater pump stations to the sanitary sewer, found in Provisions C.8, C.11, and C.12. These requirements assume that local POTWs have the hydraulic and treatment capacity to handle stormwater discharges and the infrastructure in place to carry stormwater to the sanitary sewer, which is far from the case for many local jurisdictions. In addition, wastewater treatment plants are designed to treat biological waste and not the pollutants that the MRP is trying to address with the required diversion pilot projects (mercury and PCBs). Diverting such pollutants to the POTW could affect treatment processes and result in NPDES effluent limitation violations.

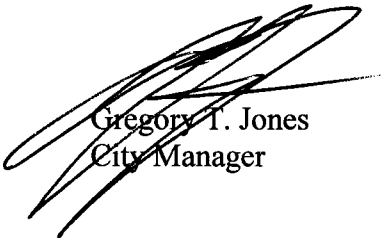
New requirements found in Provision C.3 increase the burden on local agencies with limited returns. Reducing the threshold of regulated new development and redevelopment projects from 10,000 square feet to 5,000 square feet of impervious surface requires a disproportionate amount of resources to be directed at oversight and inspection of small treatment devices.

Lastly, the Revised Tentative Order has delisted individual residential car washing as a conditionally exempt non-stormwater discharge. The Federal Register that adopted the stormwater permitting requirements states the following: "... in general, municipalities will not be held responsible for prohibiting some specific components of discharges or flows listed below [list includes 'individual residential car washing'] through their municipal separate storm sewer system even though such components may be considered non-storm water discharges, unless such discharges are specifically identified on a case-by-case basis as needing to be addressed." (Vol. 55, No. 22, Friday, Nov. 16, 1990, page 47995). The City is in favor of allowing these discharges and implementing a public outreach campaign to discourage individual residential car washing and encourage residents to discharge to landscaped areas and utilize the minimum volume of water and amount of detergent necessary.

Dale Bowyer, SF Bay Water Board
April 3, 2009
Page 3 of 3

We appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory T. Jones', is written over the printed name and title.

Gregory T. Jones
City Manager

cc: Robert A. Bauman, Director of Public Works
Alex Ameri, Deputy Director of Public Works/Utilities